

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 20611
[REDACTED],	)	
	)	DECISION
Petitioners.	)	
_____	)	

This case arises from a timely protest of a State Tax Commission staff decision adjusting the property tax reduction benefit for 2007. This matter was submitted for a decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision.

All property within the jurisdiction of this state is subject to property tax. A property tax reduction benefit is available to certain qualifying individuals throughout the state. The benefit is in the form of payment of a portion or all of an applicant's property tax on the dwelling he/she owns and occupies. The payment is funded by the state sales tax.

[Redacted] filed an application with [Redacted] County for the property tax reduction benefit on March 13, 2007.

Pursuant to Idaho Code § 63-707(5), the staff reviewed the petitioners' application and sent them a letter advising them of the intent to change the amount of their benefit from an amount not to exceed \$450 to an amount not to exceed \$290 because the receipts they provided supported only \$2,092 of the \$4,835 of medical expenses claimed in their application. The petitioners responded with a letter appealing the determination. Their file was transferred to the Legal/Tax Policy Division for administrative review.

Income for the purpose of the property tax reduction benefit is defined in Idaho Code § 63-701(5) as follows:

(5) "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted gross income:

- (a) Alimony;
- (b) Support money;
- (c) Nontaxable strike benefits;
- (d) The nontaxable amount of any individual retirement account, pension or annuity, (including railroad retirement benefits, all payments received under the federal social security act except the social security death benefit as specified in this subsection, state unemployment insurance laws, and veterans disability pensions and compensation, excluding any return of principal paid by the recipient of an annuity and excluding rollovers as provided in section 402 or 403 of the Internal Revenue Code);
- (e) Nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities;
- (f) Worker's compensation; and
- (g) The gross amount of loss of earnings insurance.

It does not include gifts from nongovernmental sources or inheritances. **To the extent not reimbursed, the cost of medical care as defined in section 213(d) of the Internal Revenue Code, incurred or paid by the claimant and, if married, the claimant's spouse, may be deducted from income.** To the extent not reimbursed, personal funeral expenses, including prepaid funeral expenses and premiums on funeral insurance, of the claimant and claimant's spouse only, may be deducted from income up to an annual maximum of five thousand dollars (\$5,000) per claim. "Income" does not include veterans disability pensions received by a person described in subsection (1)(e) who is a claimant or a claimant's spouse if the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more. "Income" does not include dependency and indemnity compensation or death benefits paid to a person described in subsection (1) of this section by the United States department of veterans affairs and arising from a service-connected death or disability. "Income" does not include lump sum death benefits made by the social security administration pursuant to 42 U.S.C. section 402(i). **Documentation of medical expenses may be required by the county assessor, board of equalization and state tax commission in such form as the county assessor, board of equalization or state tax commission shall determine.** "Income"

shall be that received in the calendar year immediately preceding the year in which a claim is filed. Where a claimant and/or the claimant's spouse does not file a federal tax return, the claimant's and/or the claimant's spouse's federal adjusted gross income, for purposes of this section, shall be an income equivalent to federal adjusted gross income had the claimant and/or the claimant's spouse filed a federal tax return, as determined by the county assessor. The county assessor, board of equalization or state tax commission may require documentation of income in such form as each shall determine, including, but not limited to: copies of federal or state tax returns and any attachments thereto; and income reporting forms such as the W2 and 1099. (Emphasis added.)

The petitioners included three expenses in their medical expense total that are not allowed in Internal Revenue Code 213(d): (1) AFS health insurance premiums. The premiums were deducted from Georgia's wages before taxes were withheld. Because the premiums were paid with pretax dollars, they were not included in the petitioners' federal adjusted gross income. Therefore, the expense cannot be deducted from income because it was not included in income. (2) [Redacted]. The year the petitioners used the loan for medical bills was the year the petitioners can claim the whole loan as a medical expense deduction. The payments were payments on a loan—not medical expenses. (3) Meals. The petitioners included receipts for meals they purchased when they traveled for doctors' appointments. Meals are not deductible medical expenses unless they are at a hospital or similar institution. Meals cannot be deducted unless they are part of inpatient care.

The petitioners' 2006 income consisted of federal adjusted gross income of \$15,248 plus social security of \$12,851 less out-of-pocket qualified medical expenses of \$2,839. The petitioners' total 2006 net income for the purpose of the property tax reduction benefit was \$25,260. They qualify to receive a 2007 benefit of an amount not to exceed **\$320**.

The State Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction applicant in certain circumstances. The proper jurisdiction to

handle such hardship situations falls with the county commissioners pursuant to Idaho Code § 63-711.

WHEREFORE, the Intent to Change Property Tax Reduction Benefit letter dated September 17, 2007, is hereby MODIFIED and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the petitioners' right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

#### CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this \_\_\_\_\_ day of \_\_\_\_\_, 2007, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

[Redacted]